

Congress of the United States

Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW,
Room 3426 ARN
Washington, DC 20460

Dear Administrator McCarthy:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.¹⁷ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.¹⁸

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.¹⁹ Placing employees on administrative

¹⁷ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

¹⁸ *Id.*

¹⁹ *To the Chairman, U.S. Civil Service Commission*, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); *Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period*, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); *Ricardo S. Morado - Excused Absence*, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); *Miller v. Department of Defense*, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); *In the Matter of the Grant of*

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the Environmental Protection Agency placed 2 employees on paid administrative leave for one year or more.²⁰ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

1. Please provide agency policy on paid administrative leave. If no policy exists, please explain how the agency grants administrative leave, and what controls, if any, are in place to prevent it from being used for extended periods of time. If there are no such safeguards, please explain why not.
2. How many employees were on paid administrative leave for more than one month in Fiscal Year (FY) 2014? What was the total cost to the agency in FY 2014 in salaries and benefits for those employees' paid administrative leave?
3. How many employees are currently on paid administrative leave that have been on such leave for:
 - a. 1-3 months;
 - b. 3-6 months;
 - c. 6-9 months; and

Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

²⁰ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

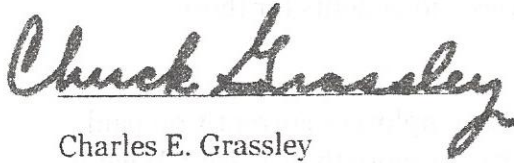
d. 9-12 months.

Do not include an employee in more than one category. For each category, what is the total cost to the agency in salaries and benefits for those employees' paid administrative leave?

4. Excluding those referenced above, how many employees currently on paid administrative leave have been on such leave for more than a year? What is the total cost to the agency in salaries and benefits for those employees' paid administrative leave?
5. For the employees described in the GAO report as being on paid administrative leave for one year or more, as well as for the employees described above as being currently on administrative leave for more than a year, please provide for each employee a detailed narrative of the circumstances surrounding the extended paid leave, including:
 - a. Position title and GS level.
 - b. Employee division/office/component.
 - c. Total compensation received while on administrative leave.
 - d. Reason for being placed on administrative leave.
 - e. Exact length of time on administrative leave.
 - f. Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.)
 - g. A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,

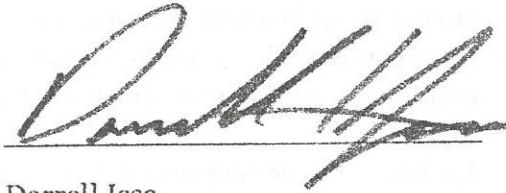


Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate



Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

The Honorable Charles E. Grassley
United States Senate
Washington, DC 20510

Dear Senator Grassley:

Thank you for your letter of October 21, 2014 to the U.S. Environmental Protection Agency requesting information regarding the use of administrative leave by agency employees during the period of FY 2011 and FY 2013. The EPA's Administrator has asked that I respond to your inquiry.

We share your concern that administrative leave be used very judiciously and only when it is in the interest of the government. We take this obligation seriously.

We have responded to your specific questions in the enclosed document regarding our policies, use, timeframes and costs of employees placed in leave status. In a small number of cases, the matters regarding the reasons for placement in administrative leave status remain under litigation and our ability to provide extensive details in this letter are limited.

I appreciate your reference to the recent GAO report on this topic. That report found that for the 24 federal agencies/departments they reviewed, there were 252 employees who were in administrative leave status for more than one year from FY 2011 through FY 2013. EPA had only two such employees. For the same agencies/departments reviewed by GAO, there were 22,098 federal employees who were in administrative leave status from one to three months from FY 2011 through FY 2013. EPA had only 50 such employees. During the relevant time periods, the EPA had about 18,000 employees. GAO's report did not characterize EPA's use of administrative leave as excessive or unusual.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations at moody.christina@epa.gov or (202) 564-0260.

Sincerely,

Nanci E. Gelb
Acting Assistant Administrator

Enclosure

cc: The Honorable Patrick J. Leahy
Chairman

Enclosure to Information Request from Senator Grassley and Congressman Issa

1. Please provide agency policy on paid administrative leave. If no policy exists, please explain how the agency grants administrative leave, and what controls, if any, are in place to prevent it from being used for extended periods of time. If there are no such safeguards, please explain why not.

Agency policy defines the term "administrative leave" as "[a]n excused absence from duty without loss of pay and without charge to the employee's leave account." Guidance in this policy also states that "[w]hen an employee's removal or indefinite suspension is proposed, and the employee's continued presence at the worksite during the notice period would constitute a threat to public property or the health and safety of coworkers or the public, the employee may be placed on excused absence during the time required to effect the action." This policy has been in effect at the EPA since 1987.

Federal regulations at 5 C.F.R. § 752.404(b) also authorize agencies to place employees in a paid, non-duty status when there is a pending decision on a proposed misconduct-related suspension or removal, "for such time as is necessary to effect the action," if the employee's continued presence in the workplace during the notice period may pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests.

2. How many employees were on paid administrative leave for more than one month in Fiscal Year (FY) 2014? What was the total cost to the Agency in FY14 in terms of salaries and benefits for those employees' paid administrative leave?

The Agency has had a total of 32 employees on paid administrative leave for over one month during fiscal year 2014. The total cost to the Agency in terms of salaries and benefits for those employees was \$1,446,907.11.

3. How many employees are currently on paid administrative leave that have been on such leave for:

The information below shows the break-out of employees on paid administrative leave during fiscal year 2014. Total of 15 spread out over the four time periods.

Duration	Number of Employees	Total Cost per Category
a. 1-3 months	15	\$294,568.94
b. 3-6 months	11	\$586,874.08
c. 6-9 months	3	\$238,389.13
d. 9-12 months	1	\$126,187.25

4. Excluding those referenced above, how many employees currently on paid administrative leave have been on such leave for more than a year? What is the total cost to the agency in terms of salaries and benefits for those employees' paid administrative leave?

Enclosure to Information Request from Senator Grassley and Congressman Issa

Excluding the employees reflected above in response to question #3, the Agency currently has one employee who has been on administrative leave for more than a year. The total costs¹ in terms of salary and benefits for this employee is \$366,892.96.

5. For each of the employees described in the GAO report as being on paid administrative leave for one year or more, as well as for the employees described above as being on administrative leave for more than a year, please provide for each employee a detailed narrative of the circumstances surrounding the extensive paid leave, including:

- a. Position title and GS level.
- b. Employee division/ office/ component.
- c. Total compensation received while on administrative leave.
- d. Reason for being placed on administrative leave.
- e. Exact length of time on administrative leave.
- f. Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.)
- g. A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid leave.
- h. A full explanation of why the employee was not placed on some form of unpaid leave.

While the GAO did not identify the employees counted in its report, our review of agency records indicates that the information below describes those employees.

Employee #1

- | | |
|---|---|
| a. Position title and GS level: | The employee is an Environmental Scientist at the GS-13 level. |
| b. Employee division/office/ component: | Office of Solid Waste and Emergency Response. |
| c. Total compensation received while on administrative leave | The employee has received \$366,892.96 in total compensation while on administrative leave. |
| d. Reason for being placed on administrative leave. | The employee was placed on administrative leave as part of an ongoing personnel matter. |
| e. Exact length of time on administrative leave. | The employee has been on administrative leave for 5953 hours. |
| f. Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.) | Administrative leave. |

¹ As of the end of FY2014

Enclosure to Information Request from Senator Grassley and Congressman Issa

g. A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid leave

The Agency determined that reassigning the employee to other duties could be potentially disruptive and/or impractical under the circumstances.

h. A full explanation of why the employee was not placed on some form of unpaid leave.

The Agency's response to this question applies to all three of these employees and appears at the end of this document.

Employee #2

a. Position title and GS level:

The employee was a Public Affairs Specialist at the GS-12 level.

b. Employee division/office/component:

Region 4 (Atlanta).

c. Total compensation received while on administrative leave

The employee received \$106,378.24 in total compensation while on administrative leave.

d. Reason for being placed on administrative leave.

The employee was placed on administrative leave as part of a personnel matter.

e. Exact length of time on administrative leave.

The employee was on administrative leave for 2,292 hours.

f. Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.)

The employee was removed from Federal service effective November 14, 2014.

g. A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid leave.

The Agency determined that reassigning the employee to other duties could be potentially disruptive and/or impractical under the circumstances.

h. A full explanation of why the employee was not placed on some form of unpaid leave.

The Agency's response to this question applies to all three of these employees and appears at the end of this document.

Employee #3

a. Position title and GS level:

The employee was an Environmental Scientist at the GS-13 level.

Enclosure to Information Request from Senator Grassley and Congressman Issa

b. Employee division/ office/component:	Region 6 (Dallas).
c. Total compensation received while on administrative leave	The employee received \$367,502.12 in total compensation while on administrative leave.
d. Reason for being placed on administrative leave.	The employee was placed on administrative leave as part of a personnel matter.
e. Exact length of time on administrative leave.	The employee was on administrative leave for 5,262 hours.
f. Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.)	The employee left the Agency on July 8, 2014, in accordance with the terms of a settlement agreement.
g. A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid leave	The Agency determined that reassigning the employee to other duties could be potentially disruptive and/or impractical under the circumstances.
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h. A full explanation of why the employee was not placed on some form of unpaid leave.

There are three different types of employee unpaid status: an indefinite suspension; Leave Without Pay (LWOP); and Absent Without Leave (AWOL). None of these were options the Agency could have used as an alternative to placing these three employees on administrative leave.

The first non pay status – placing the employee on an indefinite suspension in situations involving employee misconduct – is only permissible in instances where an agency has reasonable cause to believe that an employee has committed a crime for which a sentence of imprisonment could be imposed, pending the outcome of a criminal proceeding or any subsequent agency action following the conclusion of the criminal process. None of the employees listed above were subject to criminal proceedings. Consequently placing these employees on indefinite suspensions was not a valid option for management's consideration.

The employees did not meet the criteria for LWOP. LWOP is an employee-initiated leave option, subject to management approval. Generally, agencies cannot place an employee on LWOP involuntarily.

Enclosure to Information Request from Senator Grassley and Congressman Issa

AWOL applies when an employee is absent from work without having the absence approved by their supervisor. In these cases the supervisor may place the employee on AWOL. The circumstances of these cases did not meet the requirement for AWOL.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

OFFICE OF
ADMINISTRATION
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MANAGEMENT

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Sincerely,

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Nanci E. Gelb
Acting Assistant Administrator

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cc: The Honorable Elijah E. Cummings
Ranking Member

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c. Total compensation received while on administrative leave

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a. Position title and GS level:

The employee was an Environmental Scientist at the GS-13 level.

Enclosure to Information Request from Senator Grassley and Congressman Issa

b. Employee division/ office/component:	Region 6 (Dallas).
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DARRELL E. ISSA, CALIFORNIA
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LAWRENCE J. BRADY
STAFF DIRECTOR

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

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2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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FACSIMILE (202) 225-3974
MINORITY (202) 225-5051

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VACANCY

October 2, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Ms. McCarthy:

The Committee is continuing its oversight of the relationship between the Environmental Protection Agency and its Office of Inspector General (OIG). At hearings on May 7, 2014,¹ and June 25, 2014,² the Committee received testimony from EPA and OIG officials, including you, about actions taken by EPA's Office of Homeland Security (OHS) that have interfered with the work of the OIG. Unfortunately, it appears that EPA has not resolved these issues, and thus the work of the OIG continues to be compromised.

At the Committee's hearing on May 7, 2014, Members received testimony detailing the Homeland Security office's obstruction of OIG investigatory authority. Patrick Sullivan, Assistant Inspector General for Investigations, said the following:

I would like to go on record today and state that, as the official in charge of internal investigations at the EPA, I am very concerned that vital information regarding suspected employee and contractor misconduct is being withheld from the OIG. Because OHS continues to block my office's access to information essential to the OIG's work, I cannot assure the committee that we are doing everything possible to root out other "John Beales" who may be at the EPA or other malfeasance of similar magnitude. I wholeheartedly believe that the current situation represents a significant liability for the EPA, the Congress and the American taxpayers. In short, the actions of OHS violate the IG Act, the very legislation that Congress passed to ensure federal agencies have oversight to prevent and detect fraud waste and abuse. Without a shred

¹ H. Comm. Oversight & Gov't Reform, *Is EPA Leadership Obstructing its Own Inspector General?* (May 7, 2014), available at <http://oversight.house.gov/hearing/epa-leadership-obstructing-inspector-general/>.

² H. Comm. Oversight & Gov't Reform, *Management Failures: Oversight of the EPA* (June 25, 2014), available at <http://oversight.house.gov/hearing/management-failures-oversight-epa/>.

of doubt, I can say that OHS is preventing the OIG from doing what Congress has mandated us to do.³

The OIG's statement is an extraordinary one. Unfortunately, instead of moving swiftly to remove this barrier and allow the OIG to proceed with its work, you issued a memorandum on June 19, 2014, that mistakenly attempts to put the OIG and the Homeland Security office on an equal investigatory footing.⁴ This memorandum ignores the intent of the Inspector General Act of 1978, which mandates that IGs have ultimate investigatory authority over the agencies they oversee.⁵ EPA IG Arthur Elkins reacted to the memorandum shortly after it was released by stating that it "does not address the OIG's concerns of independence and authorities that were clearly outlined during the May 7, 2014, hearing before the Committee."⁶ Moreover, at his appearance before the Committee on September 10th, Mr. Elkins noted that "this impairment ... is still not resolved to this day."⁷

In addition to learning about the Homeland Security office's broad obstruction of OIG investigations during the Committee's May hearing, Members heard testimony from OIG Special Agent Elisabeth Heller Drake. Special Agent Drake recounted a disturbing interaction with Steven Williams, a senior OHS employee, in the course of fulfilling duties related to an OIG investigation.⁸ Special Agent Drake testified that Mr. Williams verbally assaulted her to the point that she noted "his inexplicable anger and aggressiveness in this professional office setting managed to leave me feeling intimidated."⁹ In fact, the Federal Protective Service investigated the incident and sent findings supporting a misdemeanor assault charge to the U.S. attorney's office.¹⁰ After hearing Special Agent Drake's testimony at that hearing, Ranking Member Cummings summarized the feelings of the Committee:

First of all, to Ms. Heller, I think one of the most alarming things that I have heard in being in Congress for 17 years is what you just described. Nobody should have to go through that, period, woman or man; and I am so sorry that that happened, and we

³ *Supra* note 1, submitted testimony of Mr. Patrick Sullivan, Assistant Inspector General for Investigations, Office of Inspector General, U.S. Environmental Protection Agency.

⁴ Memorandum from Administrator Gina McCarthy to Inspector General Arthur Elkins, Jr. and Acting Associate Administrator Office of Homeland Security Peter Jutro titled "Working Effectively and Cooperatively," June 19, 2014.

⁵ Inspector General Act of 1978, P.L. 95-452, §1, Oct. 12, 1978, 92 Stat. 1101, as amended (codified at 5 U.S.C. app. §§ 1-13).

⁶ Email from Jeffrey Lagda, Congressional and Media Liaison, U.S. EPA Office of the Inspector General, to H. Comm. on Oversight and Gov't Reform staff, June 24, 2014, 5:39 p.m.

⁷ H. Comm. Oversight & Gov't Reform, *Obstructing Oversight: Concerns from Inspectors General* (Sep. 10, 2014), submitted testimony of the Honorable Arthur A. Elkins, Jr., Inspector General, U.S. Environmental Protection Agency, available at <http://oversight.house.gov/hearing/obstructing-oversight-concerns-inspectors-general/>.

⁸ H. Comm. Oversight & Gov't Reform, *Is EPA Leadership Obstructing its own Inspector General?* (May 7, 2014), available at <http://oversight.house.gov/hearing/epa-leadership-obstructing-inspector-general/>.

⁹ *Supra* note 1, submitted testimony of Ms. Elisabeth Heller Drake, Special Agent, Office of Investigations, Office of Inspector General, U.S. Environmental Protection Agency.

¹⁰ Jim McElhatton, *EPA chief Gina McCarthy intervened to halt internal inquiry*, Washington Times (Apr. 29, 2014), available at <http://www.washingtontimes.com/news/2014/apr/29/epa-chief-gina-mccarthy-intervened-to-halt-to-inte/?page=all#pagebreak>.

have to do everything that we can to make sure that does not happen. That is not a part of your job description, to go through that kind of hell, and we are going to try to address that. It is very, very important to me and I am sure every member of this panel.¹¹

However, on August 31, 2014, the Committee received a letter from the attorney representing Special Agent Drake. The letter referenced the May hearing and was unequivocal about EPA's inaction:

In the nearly four months since the hearing, and more than 300 days since the initial incident, EPA has taken no meaningful action to correct or prevent a repeat of the situation, even in the face of additional reports from multiple other sources of belligerent and obstructive conduct by Mr. Williams. EPA Administrator Gina McCarthy and her staff continue to coddle Williams, though aware the Federal Protective Service found his conduct toward Agent Drake worthy of arrest.¹²

It is clear that has EPA has not done enough to address actions undertaken by OHS employees to stand in the way of OIG investigations.

The Committee remains deeply concerned about the apparent lack of progress on any of these fronts. It has been three months since the hearing at which you appeared and four months since the Committee first learned of these issues and urged the EPA to address them. To assist the Committee in its oversight of these matters, please provide the following:

1. All documents and communications referring or relating to workplace complaints made against Mr. Williams including any workplace restrictions related to such complaints from January 1, 2009, to the present.
2. All documents and communications referring or relating to any discipline or workplace violations of any other employee within OHS from January 1, 2009, to the present.
3. Any reports including drafts and interview transcripts commissioned or conducted by EPA regarding the workplace behavior of Mr. Williams. Additionally, please provide all documents and communications referring or relating to these reports.
4. All documents and communications referring or relating to the June 19th memorandum between or amongst the Office of the Administrator, OHS, and OIG.

Please provide the requested information no later than 5:00 p.m. on October 16, 2014. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471

¹¹ *Supra* note 1.

¹² Letter from David R. Schleicher, Attorney for Special Agent Drake, to Chairman Darrell Issa and Ranking Member Elijah Cummings, H. Comm. Oversight & Gov't Reform, Aug. 31, 2014 (emphasis in original).

The Honorable Gina McCarthy

October 2, 2014

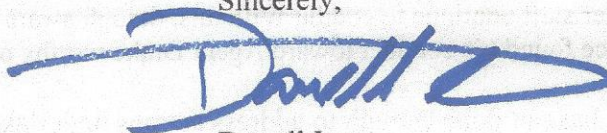
Page 4

of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

If you have any questions about this request, please contact Ryan Hambleton or Joseph Brazauskas of the Committee staff at (202) 225-5074. Thank you for your attention to this matter.

Sincerely,



Darrell Issa
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

Majority (202) 225-5074

Minority (202) 225-5051

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OCT 16 2014

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing on behalf of the United States Environmental Protection Agency (EPA) in response to your letter of October 2, 2014, regarding EPA's Office of Inspector General (OIG) and Office of Homeland Security (OHS).

As Administrator Gina McCarthy has testified, the EPA greatly values the work of its OIG Leadership throughout the agency works to ensure that OIG is provided the information it needs to effectively assist the Administrator to identify, address, and prevent any instances of waste, fraud, or abuse within EPA programs or operations. OIG has oversight responsibilities with respect to every component of the agency, including OHS, and is regularly provided access to information at all levels of the agency in support of that important oversight function.

The work of OHS is also a key function of the agency, including critical programmatic responsibilities for matters involving national security. The ability for these responsibilities to operate effectively is essential, and the agency will continue to look to OIG both for effective oversight of OHS programs, but also for help in establishing procedures that will allow each office to conduct its important work effectively.

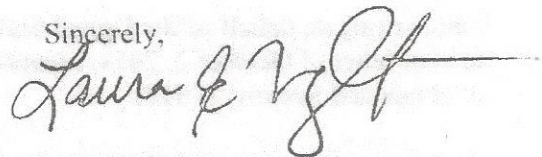
The Administrator and senior agency leadership have been working diligently to resolve any conflicts or misunderstandings related to OIG oversight of OHS. We have made significant progress in developing a common understanding and in refining procedures that recognize the needs and legal obligations of both OHS and OIG. Importantly, we have been working to refine a system of handling information that passes between the EPA and the Federal Bureau of Investigation (FBI) related to counterintelligence referrals. On June 19, 2014, Administrator McCarthy wrote to OHS and OIG regarding procedures for handling such information. After receiving comments from both offices, EPA senior leadership has been working with the FBI to revisit issues surrounding the sharing of such information.

As a result of these efforts, the Administrator has recently been able to confirm that OIG shall have access to all information shared between FBI and OHS under a 2012 memorandum of understanding regarding counterintelligence referrals, subject to OIG personnel having the necessary clearance and need to know. For your information, I have attached the most recent correspondence on this point. As you can see, these efforts are underway and will continue until we arrive at a system that fully meets the needs of the agency and all of its components.

We would be happy to provide you or your staff a more detailed explanation of these efforts to date and their current status. We would also like to engage your staff to better understand the specific requests in your letter, and to discuss a cooperative path forward for responding. Particularly given that some of the requests in your letter may involve sensitive personnel matters, we believe that staff conversations would be mutually beneficial to ensure that there is a common understanding of the information being sought and the current circumstances with regard to some of the matters raised in your letter. To set up such a meeting, your staff should contact Tom Dickerson in my office at dickerson.tom@epa.gov or (202) 564-3638.

Please feel free to contact me if you have any questions.

Sincerely,



Laura Vaught
Associate Administrator

Enclosure

cc: The Honorable Elijah E. Cummings
Ranking Member

Adm13McCarthy, Gina

From: Adm13McCarthy, Gina
Sent: Wednesday, October 15, 2014 1:00 PM
To: Arthur Elkins (elkins.arthur@epa.gov); Parrish, Cayce
Cc: Fritz, Matthew (Fritz.Matthew@epa.gov); Avi Garbow
Subject: OIG-OHS Collaboration

Arthur and Cayce,

I appreciate the efforts of both of your offices to help the Agency arrive at a system of handling information related to counterintelligence referrals that best meets our needs, missions, and legal obligations. My aim has been—and remains—to ensure that OIG can perform its vital oversight role relating to waste, fraud, and abuse, while OHS performs its important programmatic responsibilities relating to protecting our national security interests. While this is a complex area with many intersecting interests, we have made significant progress in refining procedures and our common understanding.

Following my memo of June 19, 2014, which provided procedures applicable to the handling of intelligence and related national security information, I received feedback from both of your offices. Because questions surrounding OIG access to intelligence—particularly intelligence shared under a 2012 MOU between EPA and FBI—remained a concern for OIG, I asked senior EPA leadership to revisit our conversations with the FBI regarding this issue. I have now been advised that the FBI has no concerns with OIG having access to information the FBI may provide to EPA pursuant to the 2012 MOU, so long as all persons with access have the appropriate clearance and need to know. It is also my understanding that all persons granted access shall operate in accordance with OIG procedures that restrict the use of shared information that is governed by other laws and policies and avoids activities that could be expected to compromise any ongoing national security investigation.

Based upon past representations from OIG, I understand OIG generally asserts a need to know, for the purposes of fulfilling its obligations under the Inspector General Act, information shared between FBI and OHS under the 2012 MOU. If I am mistaken in this regard, please let me know.

Accordingly, I want to confirm that OIG shall, consistent with its authority under the Inspector General Act, have access to all information shared between FBI and OHS under the 2012 MOU, subject to OIG personnel having the necessary clearance, and a need to know. This is effective immediately, notwithstanding the terms set forth in Section III of the procedures I provided to you on June 19th. I have asked Deputy Chief of Staff Matthew Fritz and General Counsel Avi Garbow to amend Section III of those procedures to reflect this development, and to further consider other comments we have received from your offices on those procedures.

This new understanding regarding access to information shared under the 2012 MOU does not affect any restrictions on use of such shared information, which may be governed by other law or regulation. In every instance, OIG shall protect information from unauthorized disclosure and must ensure that it handles information in accordance with all applicable laws and policies, with special attention to avoiding any activities that could be expected to compromise any ongoing national security investigation.

Thank you for your continued attention to this important area. I am relying on your good leadership and judgment for successful implementation of this change.

AL-14001-1526

PATTY MURRAY
WASHINGTON

United States Senate

WASHINGTON, DC 20510-4704

COMMITTEES:

APPROPRIATIONS

BUDGET

HEALTH, EDUCATION, LABOR,
AND PENSIONS

RULES AND ADMINISTRATION

VETERANS' AFFAIRS

June 16, 2014

Legislative Liaison
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Liaison:

The attached communication is for your consideration and whatever action, if any, you might deem appropriate. I would appreciate it if you would respond to *over my* directly regarding this matter.

Thank you very much for your time.

Sincerely,



Patty Murray
United States Senator

PM/ks

154 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-4704
(202) 224-2621

2930 WETMORE AVENUE
SUITE 903
EVERETT, WA 98201-4107
(425) 259-6515

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(206) 553-5545
TOLL FREE: (866) 481-9186

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SUITE 600
SPOKANE, WA 99201-0712
(509) 624-9515

950 PACIFIC AVENUE
SUITE 650
TACOMA, WA 98402-4450
(253) 572-3636

THE MARSHALL HOUSE
1323 OFFICER'S ROW
VANCOUVER, WA 98661-3856
(360) 696-7797

website: <http://murray.senate.gov>
e-mail: <http://murray.senate.gov/email>
PRINTED ON RECYCLED PAPER

402 EAST YAKIMA AVENUE
SUITE 420
YAKIMA, WA 98901-2760
(509) 453-7462

Subject: EPA web site and climate change

Dear Senator Patty Murray,

I recently visited the EPA web site to see how engaging it is for people interested in climate change. I was terribly disappointed.

<http://www.epa.gov/climatechange/basics/>

The EPA should provide color coded climate prediction maps like those used by meteorologists. It should show the change in temperatures for the various seasons, the likelihood of extreme weather events (droughts, blizzards, hurricanes, tornados, noreasters, and PNW storms). There should be maps for every 15 - 20 years to show the change. A website design firm should be contracted to redesign the EPA site and focus on priorities. This design firm should create interactive maps that will allow people to view the changes with animation and deep dive into charts and maps. With the maps, there should be data made available for the public to download along with links to the research that can be made available to the public as well.

There should be farmers' maps to demonstrate how climate change will affect them (droughts, insects, flooding). Bar graphs should show the projected increase in food prices and demonstrate the difference between normal inflation and the changes resulting from climate change. Home insurance maps should demonstrate the increase in insurance rates as a result of more weather problems. There should be an inflation map that shows the increase in costs as a result of changes in food, insurance, and possibly other factors. That map should be in conjunction with a map that shows increases in costs associated with taking suggested steps to reduce carbon emissions, such as installing solar panels, carbon tax, increased efficiency, greater fuel economy, electric vehicles, and better public transportation.

The EPA website could feature the new National Climate Change Viewer, and it should be front and center.

<http://www.hayspost.com/2014/05/10/national-climate-change-viewer-unveiled/>

http://www.usgs.gov/climate_landuse/clu_rd/apps/nccv_viewer.asp

My criticism of this climate change viewer is that it is way too technical. There should be a viewer for technically minded people, and a viewer for most people. A website design firm should be contracted to redesign this. Web designers point out that "if you have to include a tutorial on how to use your website, then the design is bad."

Lastly, since most people don't actually visit the EPA web site, I suggest that the EPA should send a beautifully designed PDF and animation videos to the news media. It should send an email to invite insurance and agriculture organizations to invite them to download that PDF and view the animations. I believe that informing farmers and insurance brokers are necessary because climate change affects their businesses very directly. When they start figuring in how climate change will affect them in the future, they will talk about it more with others. Word of mouth advertising is the best form of advertising.

Related links:

<http://www.investing.com/news/economy-news/how-climate-change-will-upend-the-u.s.-economy-282380>

<http://www.newrepublic.com/article/117674/climate-change-study-mentions-economic-costs-offers-few-details>

Sincerely,

exempt b

exempt b

exempt b



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 28 2014

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

The Honorable Patty Murray
United States Senate
Washington, D.C. 20510

Dear Senator Murray:

Thank you for your letter of June 16, 2014, in which you asked us to reply directly to your constituent, *exempt b* regarding EPA's climate change website. Please see the enclosed letter Janet McCabe, Acting Assistant Administrator for the EPA's Office of Air and Radiation, sent to *exempt b* today.

If you have further questions, please contact me or your staff may call Patricia Haman at (202) 564-2086.

Sincerely,

A handwritten signature in black ink, which appears to read "Nichole Distefano".

Nichole Distefano
Deputy Associate Administrator for
Congressional Affairs

THOMAS R. CARPER, DELAWARE, CHAIRMAN

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United States Senate

COMMITTEE ON

HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

GABRIELLE A. BATKIN, STAFF DIRECTOR
 KEITH B. ASHDOWN, MINORITY STAFF DIRECTOR

June 27, 2014

The Honorable Gina McCarthy
 Administrator of the Environmental Protection Agency
 U.S. Environmental Protection Agency
 1200 Pennsylvania Avenue, NW
 Washington, DC 20460

Dear Administrator McCarthy:

During this period of difficult fiscal challenges, furloughs, and tough spending decisions, it is critical that federal agencies have consistent, efficient procedures to deal with employees who have engaged in wrongdoing and monitor employees' attendance at work. I am writing to obtain information on two prevalent government practices relating to employees and personnel management at the Environmental Protection Agency: paid administrative leave and absent without leave.

Based on government rules, federal employees are entitled to certain due process protections before dismissal.¹ During this process, some employees facing disciplinary action can remain on duty and continue to do their job. However, in some circumstances, an agency may place an employee on paid non-duty status during the investigation into their alleged misconduct. This is known as paid administrative leave.

Additionally, there are number of employees at many federal agencies who have hours where they are absent without leave, or "AWOL." The Office of Personnel Management defines AWOL as "non-pay status that covers an absence from duty which has not been approved."²

To help me gain a better understanding of how paid administrative leave and employees on AWOL status affect operations at the Environmental Protection Agency, and to quantify the cumulative effect of these policies throughout the executive branch, please provide answers to each of the following questions:

- 1) How many employees have been on paid administrative leave for 10 days or more in 2014? In addition, please provide:
 - a) the total time each employee has been/was on administrative leave;

¹ Based on Merit Systems Protection Board Rules, Comptroller General Decisions, and Office of Personnel Management Guidelines.

² U.S. Office of Personnel Management, Employee Relations – Reference Materials, "Addressing AWOL," <http://www.opm.gov/policy-data-oversight/employee-relations/training/presentationaddressingawol.pdf>.

- b) the estimated compensation paid to each employee during that period of time on administrative leave; and
 - c) the reason each employee is on administrative leave.
- 2) How many employees have been AWOL for more than a month in 2014? In addition, please provide:
- a) the annual salary of each such employee;
 - b) the total time each employee was AWOL (including time in previous years if applicable);
 - c) the compensation paid to each employee during the period of AWOL time; and
 - d) the title of each employee.

I would appreciate your response no later than August 20, 2014. Thank you for your attention to this important matter. Your cooperation is appreciated. If you have any questions about this request, please contact Sally Braeuer on my staff at (202) 224-4597 or via email at SallyAnne_Braeuer@hsgac.senate.gov.

Sincerely,



Tom A. Coburn, M.D.
Ranking Member
Committee on Homeland Security and
Governmental Affairs



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

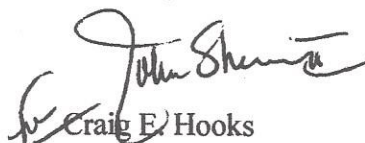
The Honorable Tom A. Coburn, M.D.
Ranking Member
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Coburn:

Thank you for your letter of June 27, 2014, in which you asked the agency for information regarding employees who have been placed on administrative leave or who have been placed in an absent-without-leave status. The requested information is enclosed with this letter.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations at moody.christina@epa.gov or (202) 564-0260.

Sincerely,


Craig E. Hooks
Assistant Administrator

Enclosure

Enclosure to Information Request from Congressman Coburn

(Please note – The information below does not include any information from our Office of the Inspector General, which operates independently as authorized by the IG Act of 1978, as amended)

1. How many employees have been placed on administrative leave for 10 days or more in 2014?

The Agency has 15 employees who have been on administrative leave for ten days or more in 2014.

In addition, please provide:

	(a) Total time on administrative leave	(b) Estimated compensation paid while on administrative leave	(c) Reason the employee was on administrative leave
Employee 1	400 hours	\$14,338	Misconduct involving inappropriate use of Government equipment
Employee 2	200 hours	\$10,626	To avoid employee being a continued disruption in the workplace (subsequently removed)
Employee 3	152 hours	\$9,025	To avoid employee being a continued disruption in the workplace (subsequently removed)
Employee 4	850 hours	\$32,538	Erratic and threatening behavior in the workplace (pending removal)
Employee 5	376 hours	\$8,817	To prepare an application for disability retirement
Employee 6	960 hours	\$39,926	As part of an EEO settlement while awaiting approval of the employee's disability retirement
Employee 7	1040 hours	\$53,684	As part of a settlement agreement that resolved a proposed removal for misconduct.
Employee 8	819 hours	\$47,534	As part of a settlement agreement that resolved a proposed indefinite suspension for criminal misconduct.
Employee 9	115 hours	\$6,257	Employee safety (pending removal)
Employee 10	296 hours	\$12,189	Unprofessional conduct, lack of candor, failure to follow instructions, failure to follow leave procedures (pending removal)

Response to Question 1 (continued)

	(a) Total time on administrative leave	(b) Estimated compensation paid while on administrative leave	(c) Reason the employee was on administrative leave
Employee 11	672 hours	\$18,023	Lack of candor during an agency investigation, inaccurate report of information in agency time-keeping records, Absent Without Leave (AWOL); additionally, there is an ongoing criminal investigation by the IG with DOJ (pending removal)
Employee 12	352 hours	\$9,718	As part of a settlement agreement (which included the employee resigning from Federal service)
Employee 13	440 hours	\$26,166	Investigation by both the IG and HR due to criminal activities on the part of the employee's son, and time and attendance issues
Employee 14	168 hours	\$4,216	Disruption in the workplace during investigation into conduct issues
Employee 15	32* hours	\$1,697	Performance (pending removal)

*Note: Although "employee 15" has only been on administrative leave since 8/5/14 we anticipate this employee remaining on administrative leave for ten days or more while the removal action proceeds.

2. How many employees have been AWOL for more than a month in 2014?

The Agency has had five employees on AWOL for more than a month in 2014.

In addition, please provide:

	(a) The annual salary for each such employee	(b) The total time each employee was on AWOL	(d)[†] the title of each employee
Employee 1	\$138,136	400 Hours	Environmental Protection Specialist
Employee 2	\$110,881	168 hours	Equal Employment Opportunity Specialist
Employee 3	\$123,986	201 hours	Environmental Protection Specialist
Employee 4	\$116,901	256 hours	Chemical Engineer
Employee 5	\$57,428	816 hours in 2014; 98.5 hours in 2013; 28 hours in 2012	Environmental Protection Assistant

[†] The reply to item 2(c) appears on the next page.

c) The compensation paid to each employee during the period of AWOL time

In accordance with OPM guidance, when an employee is in a non-pay status (which includes AWOL) their paychecks are reduced to reflect the non-pay hours. If an employee has been in a non-pay status for an entire pay period, no annual or sick leave is earned for that pay period. Contributions to employee's Thrift Savings Plans are similarly reduced to take into consideration the amount of time the employee has been in a non-pay status. With respect to the Federal Employees Health Benefits (FEHB) program, when an employee enters into a non-pay status they must either continue the enrollment, and agree to pay the premium or incur a debt, or terminate their enrollment in the FEHB program. (If the employee does not elect to terminate or continue the enrollment, their coverage automatically terminates at the end of the last pay period in which the employee paid the premium.) In addition, when an employee is in a non-pay status, their Federal Employees Group Life Insurance (FEGLI) coverage continues without cost to the employee for up to 12 months. The coverage terminates after an employee has been in a non-pay status for 12 months.

Congress of the United States
Washington, DC 20515

June 13, 2014

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Administrator McCarthy:

On June 2, 2014, the Office Inspector General (OIG) of the U.S. Environmental Protection Agency issued its semiannual report to Congress.¹ In the report, the OIG included a section entitled "Impediments to OIG Efforts," which raised concerns that EPA employees were erecting barriers that hampered its ability to conduct its congressionally mandated responsibilities. The report also revealed that you have failed to reinforce the Agency's policy on employee cooperation with the OIG despite Agency precedent and the OIG's July 2013 request to issue an "all-hands memorandum."² As such, it appears your failure to issue a memorandum on this policy may have led EPA employees to mistakenly believe that noncooperation is permissible. To prevent any further impediments to the OIG, it is incumbent upon you to take immediate steps to remedy these problems.

As required by the Inspector General Act, §5(a)(5), semiannual reports issued by the Inspectors General must include a summary of reports made under §6(b)(2), which includes information that is, in the judgment of an IG, unreasonably refused or not provided.³ Pursuant to this responsibility, the OIG reported that multiple offices within EPA have been obstructing the OIG. Specifically, several EPA offices, including the Office of Homeland Security, the Office of Chief Financial Officer, the Office of Chemical Safety, as well as the Office of General Counsel reportedly failed to cooperate with the OIG.⁴ These reports are very concerning as instances of

¹ INSPECTOR GEN., U.S. ENV'T'L PROT. AGENCY, SEMIANNUAL REPORT TO CONGRESS OCTOBER 1, 2013-MARCH 31, 2014, EPA-350-R-14-001 (May 2014), *available at* http://www.epa.gov/oig/reports/2014/Semiannual_Report_to_Congress-March_2014.pdf.

² *Id.*

³ Inspector General Act of 1978, as amended, 5 U.S.C. App., *available at* <https://www.oig.dot.gov/sites/dot/files/IG%20Act%20Booklet-with%202008%20Reform%20Act.pdf>

⁴ "Sometimes our efforts to root out fraud, waste and abuse were thwarted by impediments from the agency. The most significant of these, which is ongoing, was the refusal of the EPA's Office of Homeland Security, a unit established by the Office of the Administrator to handle national security issues, to cede or share jurisdiction on allegations of employee misconduct and other matters for which the OIG is charged responsibility under the Inspector General Act. On other fronts, an Office of General Counsel attorney refused to speak with the auditors examining agency wide pay issues, creating a potential gap in information. And auditors who requested financial statements for two pesticide funds did not receive sufficient and timely information." INSPECTOR GEN., U.S. ENV'T'L PROT. AGENCY, SEMIANNUAL REPORT TO CONGRESS OCTOBER 1, 2013-MARCH 31, 2014, EPA-350-R-14-001 (May 2014) at 3.

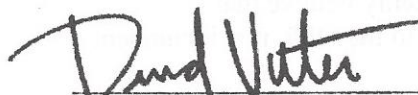
The Honorable Gina McCarthy
June 13, 2014
Page 2

an agency failing to cooperate with its OIG appears to be extremely rare. Indeed, a review of OIG semiannual reports for six federal agencies over the last five years did not uncover any other examples of an OIG reporting internal agency obstruction pursuant to §5(a)(5).⁵

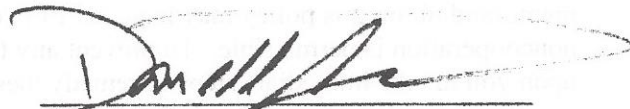
It is wholly unacceptable for federal employees to refuse to cooperate with the OIG. Accordingly, we request that you promptly issue an agency-wide memorandum that requires EPA employees cooperate with the OIG. Moreover, we respectfully request that you report back to the House Oversight and Government Reform Committee and the Senate Committee on Environment and Public Works as soon as possible on all personnel actions taken against individuals who have refused to cooperate with the EPA OIG.

Thank you for your prompt attention to this matter. If you have any questions, please contact Kristina Moore with the Senate Committee on Environment and Public Works at (202) 224-6176 and Tyler Grimm with the House Committee on Oversight and Government Reform at (202) 225-5074.

Sincerely,



David Vitter
Ranking Member
Senate Committee on
Environment and Public Works



Darrell E. Issa
Chairman
House of Representatives Committee
on Oversight and Government Reform

cc: The Honorable Barbara Boxer, Chairman, Committee on Environment and Public Works

The Honorable Elijah Cummings, Ranking Member, Committee on Oversight and Government Reform

⁵ EPW staff reviewed semiannual reports over the last five years from the OIG of the following agencies: HHS, VA, EEOC, IRS, DOJ, and ED.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 22 2014

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

The Honorable David Vitter
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Senator Vitter:

I write in response to your letter of June 13, 2014, regarding the May 2014 Semiannual Report to Congress issued by the Office of the Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA).

The OIG plays a unique and critical role in helping to ensure that the EPA remains faithful to our mission and mandates, and that the agency is able to readily identify and address instances of fraud, waste and abuse in its programs. The EPA greatly values the OIG's oversight and is committed to ensuring that the EPA has an effective workforce, dedicated to these same objectives.

The EPA has undertaken extensive work to strengthen the management and internal controls of the agency, including in response to recommendations of the OIG. EPA employees have consistently provided broad support and information to facilitate the oversight work of the OIG. Cooperation with those entities that provide oversight, including the OIG, is not only the policy of the agency, but part of its culture.

EPA Administrator Gina McCarthy has stated in no uncertain terms that the EPA has zero tolerance for anything less than the full cooperation of its employees with the OIG's work. On May 20, 2014, Administrator McCarthy personally addressed EPA employees at an all hands town hall, at which she made clear to employees that she "expect[s] ongoing cooperation in every OIG investigation and audit." (You may view footage of this town hall at <https://www.youtube.com/watch?v=LCbAuziF4KE>.)

During the town hall, Administrator McCarthy discussed the "important role" the OIG plays in "ensur[ing] that [EPA] continually improve as a high-performing organization." She noted her "apprecia[tion] [for] the commitment" of the OIG and his staff, and Administrator McCarthy further advised staff that "the basic standards of professional conduct apply equally to every

single employee," without regard to title, and that all EPA employees are "accountable" for the business and conduct of the agency.

The EPA has made tremendous progress toward ensuring productive working relationships among its offices and remains committed to working closely with the OIG to provide all the assistance they may need to complete their work in helping to safeguard the EPA's mission of protecting the environment.

Thank you for your interest in this important matter. Please feel free to contact me if you have further questions, or your staff may contact Christina Moody at moody.christina@epa.gov or (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura Vaught", with a stylized flourish extending from the end.

Laura Vaught
Associate Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 22 2014

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

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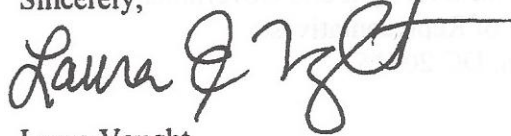
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Thank you for your interest in this important matter. Please feel free to contact me if you have further questions, or your staff may contact Christina Moody at moody.christina@epa.gov or (202) 564-0260.

Sincerely,



Laura Vaught
Associate Administrator

AL-14-001-1528

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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BETTINA POIRIER, MAJORITY STAFF DIRECTOR
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June 16, 2014

Dr. Francesca Grifo
Science Integrity Official
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue NW (Mail Code: 8105R)
Washington, DC 20460

Dear Dr. Grifo:

On March 17, 2014, I requested information from you in your position as the "Science Integrity Official" which should have rendered a thorough and prompt response. Unfortunately, you have yet to reply to certain matters of scientific integrity for which you were provided adequate time. As you are aware, EPA's Scientific Integrity Policy, which requires you to ensure all aspects are upheld by the Agency, describes the Agency's scientific work as that of being of the highest quality. Your failure to respond after three months is unfortunate and telling.

As was clearly pointed out in my March letter, I believe EPA is guilty of data-related misconduct as is defined by the Organization for Economic Co-operation and Development (OECD). As stated in OECD's "Best Practices for Ensuring Scientific Integrity and Preventing Misconduct," "Misconduct is a special concern for governmental administrators, who are the primary constituency of the OECD Global Science Forum. On behalf of the public, and to achieve societal benefits, they fund, oversee, and evaluate research, much of which is conducted directly in public institutions or is otherwise sponsored by governments."¹

By now you should be aware that the Environmental Protection Agency's June 2, 2014, proposal targeting greenhouse gas emissions from existing electric generating units relies on the exact same studies for which I requested your input regarding specific guidance on the appropriate steps that need to be taken to ensure guidelines and policy on data misconduct and scientific transparency are not violated by EPA.² As you remain confounded by the previous request to resolve significant scientific concerns as outlined, I am asking for your input on another matter related to scientific integrity that should provide a clear opportunity for straightforward answers.

I ask that you provide additional information related to a study Dr. Stan Barone co-authored in 2001 titled, "The effects of perinatal tebuconazole exposure on adult neurological,

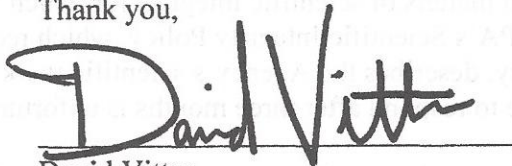
¹ Organization for Economic Co-Operation and Development Global Science Forum, "Best Practices for Ensuring Scientific Integrity and Preventing Misconduct." at p.1 Available at <http://www.oecd.org/sti/sci-tech/40188303.pdf>

² Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, U.S. EPA, prepublication version (June 2, 2014), available at <http://www2.epa.gov/sites/production/files/2014-05/documents/20140602proposal-cleanpowerplan.pdf>. See also Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units, U.S. EPA, prepublication version (June 2, 2014), available at <http://www2.epa.gov/sites/production/files/2014-05/documents/20140602proposal-modsreconstructs.pdf>.

immunological, and reproductive function in rats.”³ Dr. Barone subsequently published a Letter to the Editor on this study in 2004, in which he withdrew “...all neuropathological conclusions in the paper...” due to questions that arose about the reported findings.⁴ For some inexplicable reason that same year, Dr. Barone left the Office of Research and Development’s (ORD)’s Neurotoxicology Division in Research Triangle Park, North Carolina, and took a non-research based position at ORD’s National Center for Environmental Assessment in Washington, DC. I am concerned that there may exist matters of scientific integrity related to this 2001 paper. Therefore, I am requesting all communications related to the “[q]uestions [that] arose...”⁵ regarding this paper, the subsequent steps that ORD took to investigate the matter, ORD’s findings, and a list of researchers familiar with the case for me to interview.

It is critical that our governmental institutions retain the highest standards of scientific integrity. I appreciate your complete response to these important scientific matters no later than July 7, 2014.

Thank you,

A handwritten signature in black ink that reads "David Vitter". The signature is stylized, with a large, looped "D" and a cursive "Vitter".

David Vitter

Ranking Member

Senate Environment and Public Works Committee

³ Moser et al. (2001) *The effects of perinatal tebuconazole exposure on adult neurological, immunological, and reproductive function in rats*, TOXICOLOGICAL SCIENCES, Vol. 62, pp. 339-352.

⁴ Barone and Moser (2004) *Letter to the Editor*, TOXICOLOGICAL SCIENCES, Vol. 77, p. 183.

⁵ *Ibid.*



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 22 2014

**OFFICE OF THE
SCIENCE ADVISOR**

The Honorable David Vitter
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Vitter:

Thank you for your letters dated March 17 and June 16, 2014, to the U.S. Environmental Protection Agency regarding data access and scientific integrity. The agency takes seriously its responsibility to retain the highest of scientific and ethical standards, including quality standards; its commitment to peer review and advisory committees; and its obligation to communicate clearly and openly with the public. In terms of the issues you raise in your letter, the EPA has worked with you to be forthcoming, and has provided to you all of the data, as well as analyses and re-analyses of that data, the agency has obtained. That data was provided to you in the same format in which it was provided to the agency.

This letter seeks to address your concerns regarding the reliance of the EPA on the highest quality science; the assurance that scientific studies used to support regulatory studies undergo appropriate levels of independent peer review; the existence of EPA initiatives to expand and promote access to scientific information by making it available online in open formats in a timely manner, including access to data and non-proprietary models underlying agency policy decisions. The concerns you raised about the 2001 publication co-authored by Dr. Stanley Barone have been forwarded to the Office of Chemical Safety and Pollution Prevention for a response.

Progress built on science defines EPA's success. It is through science that we untangle even those most complex questions about our air, water, and earth, and endeavor to deliver a safe and healthy environment to the American people. Accurate and objective technical and scientific information is the backbone of every decision about public policy made by this agency.

The EPA's Scientific Integrity Policy, which builds upon government and agency-wide guidance documents and policies, applies to all data collected for environmental operations, including environmental technology activities, performed directly by or for the EPA. This includes all federal, state, tribal and local partners under interagency and financial assistance agreements; contractors, cooperators and grantees funded by the EPA; regulated entities; and potentially responsible parties. In addition, the EPA's Guidelines for Field Operations comprise a quality management system that promotes national consistency among the agency's field activities including document control, records management, sampling and environmental data management, field documentation, equipment, inspections, investigations, and reports. Consistent with this Policy and these Guidelines, the EPA employs up-to-date research methodologies and verifiable and defensible data collection methods,

relying upon data of known quality that is suitable for its intended use. In so doing, we uphold our commitment to promoting a culture of scientific integrity at the EPA.

The EPA regards peer review as essential for enhancing the quality and the credibility of the scientific basis of our public policy decisions. Peer review is a critical tool for ensuring that this agency employs only high-quality, robust science; for promoting efficiency, as well as open discussion; and for fostering the refinement of our technical and scientific understanding. Agency-wide peer review policies have been in place since 1993, and, today, the EPA relies on its Peer Review Policy¹, which calls for the review of the agency's scientific work products, including economic and social science products that inform agency decisions, as well as the Peer Review Handbook², a how-to manual for agency staff.

Your letter also raises questions about replication, reproducibility, and reanalysis. Replication is the application of the exact same experimental design and procedure to see if the results will be similar. It could be done by the original investigator or an independent investigator. Reproducibility describes the ability to find consistent results when using a similar, but not exact, experimental design (e.g., conducting an epidemiology study in different geographic areas). Like replication, a study of reproducibility could be done by the same or independent investigator. Both reproducibility and replication are key tenets in experimental science, as they attest to the robustness (or lack thereof) of the original findings. In observational research such as epidemiology, the ability to replicate an experiment is more difficult than to reproduce the findings. Reanalysis employs statistical procedures on an existing data set (that is, no new data is generated, only potentially new interpretations based upon a different way of looking at the data) and is usually carried out by independent researchers. While re-examining an already analyzed data set can have merit, science is often most effectively advanced by new studies that attempt to demonstrate that the results of previous research did not happen by chance or occurred because of undetected confounders or bias.

In the case of the specific studies you have raised – the Harvard Six Cities Cohort Study and American Cancer Society (ACS) Cohort Study – the underlying data were reanalyzed through a rigorous process initiated by the Health Effects Institute (HEI). The HEI reanalysis report and its appendices provide documentation that includes an independent data audit, reanalysis of the results of the initial study, copies of questionnaires, codebooks, and computer outputs used in the reanalysis effort. Furthermore, the extended follow-up studies provide additional documentation on confirmation of results and important extensions of the Harvard Six Studies Study. Concerning the ACS study, as part of the HEI sponsored re-analyses, the ACS made data sharing agreements that allowed separate data access by a large independent reanalysis team headed by Dr. Daniel Krewski at the University of Ottawa to conduct data auditing, reanalysis of originally published results, and substantial sensitivity analyses. Many peer reviewed journal articles from 2002 to 2013 contain even more extensive documentation.³ A discussion of the nature of this documentation was supplied in the August 1, 2013, letter from Dr. C. Arden Pope III and the September 25, 2013, letter from Harvard University, both forwarded to your office on October 30, 2013.

¹ U.S. Environmental Protection Agency (2006) *Peer Review and Peer Involvement at the U.S. Environmental Protection Agency*. http://www.epa.gov/peerreview/pdfs/peer_review_policy_and_memo.pdf

² U.S. Environmental Protection Agency (2006) *Peer Review Handbook, Third Edition*. http://www.epa.gov/peerreview/pdfs/peer_review_handbook_2006.pdf

³ Including Pope et al. 2002, Pope et al. 2004, Jerrett et al. 2005, Jerrett et al. 2009, Turner et al. 2011, Jerrett et al. 2013, Krewski et al. 2000, Krewski et al. 2009, Jerrett et al. 2011

Although it is not feasible to exactly replicate epidemiologic studies based on their observational nature we have had the benefit of numerous additional peer-reviewed research studies being published since the publication of the original ACS and Harvard Six Cities studies that demonstrate the reproducibility of the findings. One such study, Eftim et al. (2008), detailed in the 2009 Particulate Matter Integrated Science Assessment (PM ISA), examined the public health impact of long-term exposure to air pollution in the same cities that encompass the ACS and Harvard Six Cities studies, but used Medicare data rather than personal medical records that are protected due to individual privacy requirements. The results of Eftim et al. (2008) further confirmed the conclusions of the ACS and Harvard Six Cities studies. As such the PM ISA concluded that the Eftim et al. (2008) study was able to "qualitatively reproduce the original individual-level cohort study (e.g., ACS and Six Cities Study) results." Since the completion of the 2009 PM ISA that provided the scientific foundation for decisions on the Particulate Matter National Ambient Air Quality Standards in 2012, hundreds of relevant peer-reviewed publications have become available, and these studies confirm the conclusions described in the ISA, as detailed in the "Provisional Assessment of Recent Studies of Health Effects of Particulate Matter Exposure". Of these studies, a relatively large number have been published outside the U.S., such as in South America (the ESCALA study) and Asia (the PAPA study). Long-term exposure studies can be costly, and take many years to conduct. As such, few such studies have been conducted outside of the U.S. However, the few that have been conducted in places such as the Netherlands (Brunekreef et al. 2009) and Norway (Naess et al. 2007), add to the large body of scientific evidence indicating the public health impact of air pollution. Although most of the studies in the "Provisional Assessment of Recent Studies of Health Effects of Particulate Matter Exposure" are examining short-term exposures to air pollution, they too demonstrate that air pollution is a worldwide public health problem. These short-term exposure studies are equally important in assessing the public health impacts of air pollution, but differ from the ACS and Harvard -Six Cities studies as they are cohort studies that examine the public health impact of long-term exposures to air pollution.

The EPA has long fostered a culture of scientific openness and integrity, and we continue to seek ways to enhance and expand upon these responsibilities. Again, I thank you for championing scientific integrity.

Should you have further questions, please contact me or your staff may contact Laura Gomez in the EPA's Office of Congressional and Intergovernmental Relations at gomez.laura@epa.gov or 202-564-5736.

Sincerely,



Robert Kavlock, Ph.D.
Interim Science Advisor

cc: The Honorable Barbara Boxer, Chairman

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STAFF DIRECTOR

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

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L. TAMMY DUCKWORTH, ILLINOIS
ROBIN L. KELLY, ILLINOIS
DANNY K. DAVIS, ILLINOIS
PETER WELCH, VERMONT
TONY CARDENAS, CALIFORNIA
STEVEN A. HORSFORD, NEVADA
MICHELLE LUJAN GRISHAM, NEW MEXICO
VACANCY

June 4, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Administrator McCarthy:

The Committee on Oversight and Government Reform is conducting oversight of possible politicization of areas within the Executive Branch. Pursuant to our oversight, we are writing to request documents that will assist the Committee in its oversight of agency travel done at the behest of assisting a political candidate. Such travel may violate the Hatch Act, which prohibits federal employees from engaging in certain political activities.

This Committee has a long, bipartisan history of examining Hatch Act enforcement. For example, in 2007, former Committee Chairman Henry A. Waxman initiated a series of investigations into allegedly improper political activity in the Executive Branch.¹ During the Committee's investigation—which spanned nearly two years—the staff interviewed or deposed 18 political appointees, including President Bush's political directors, and received nearly 70,000 pages of documents from the White House and 29 agencies.² Chairman Waxman also issued a subpoena to the Chairman of the Republican National Committee to obtain e-mail records.³

The Committee's investigation culminated in a staff report entitled "The Activities of the White House Office of Political Affairs."⁴ In the report, Chairman Waxman called for the elimination of the Office.⁵ The Waxman staff report concluded that the White House arranged the travel of senior Administration officials to politically advantageous locations and specifically

¹ Democratic Staff, H. Comm. on Oversight & Gov't Reform, 110th Cong., *The Activities of the White House Office of Political Affairs* (Oct. 2008), available at <http://oversight-archive.waxman.house.gov/documents/20081015105434.pdf>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

used travel as a tool to help elect or reelect members of the President's political party.⁶ According to the report, "[o]fficials were directed to make hundreds of trips—most at taxpayer expense—for the purpose of increasing the electability of Republicans."⁷ The Waxman staff report concluded that these events violated the Hatch Act, and recommended that taxpayers "should . . . not pay the travel expenses of cabinet and other senior officials to fly across the country" for political purposes."⁸

During President Obama's time in office, the Administration has seemingly developed a similar pattern of using taxpayer-funded travel for political gain.⁹ For example, in June 2012, *Politico* reported that Cabinet members attended "fundraisers and taxpayer-funded trips" that mixed policy and politics.¹⁰ According to *Politico*, "[t]he rhetoric from the secretaries has at times detoured into fiery defenses that echo the campaign messaging of Obama and Vice President Joe Biden."¹¹ The effort reportedly expanded in April 2012 when Cabinet members met with senior Obama campaign officials at DNC headquarters to discuss their role in the 2012 campaign.¹² This is precisely the type of political activity that Chairman Waxman determined to be Hatch Act violations.

In May 2014, the *Los Angeles Times* reported that former Labor Secretary Hilda Solis triggered a criminal investigation by soliciting subordinates to raise money for President Obama's reelection campaign.¹³ In March 2012, while reportedly on a trip mixing official government business and politics,¹⁴ then-Labor Secretary Hilda Solis headlined a fundraiser for President Obama's reelection campaign in Los Angeles, California.¹⁵ According to the *Times*, Solis left a voicemail on an employee's government-issued phone in which she requested the employee to contribute and assist with a fundraiser.¹⁶ While still serving as Secretary of Labor,

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ See generally Peter Baker & Eric Lipton, *In a Tight Race, Obama Draws on the Levers of his Power*, N.Y. TIMES, Sept. 19, 2012, available at <http://www.nytimes.com/2012/09/20/us/politics/obama-exploits-familiar-junction-of-policy-and-politics.html>; Paul Kane, *House Democrats Hit Boiling Point Over Perceived Lack of White House Support*, WASH. POST, July 15, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/07/14/AR2010071406006.html>; Robert Hendin, *Obama No Longer a Candidate, But Still Campaigning*, CBS NEWS, Feb. 9, 2009, available at <http://www.cbsnews.com/news/obama-no-longer-a-candidate-but-still-campaigning>.

¹⁰ Darren Samuelsohn, *Obama's Cabinet Members Mix Policy, Politics*, POLITICO, June 7, 2012, available at <http://www.politico.com/news/stories/0612/77138.html>.

¹¹ *Id.*

¹² *Id.*

¹³ Paul Pringle & Abby Sewell, *Compliant Over Obama Fundraiser Triggered Solis Probe*, L.A. TIMES, May 9, 2014, available at <http://www.latimes.com/local/la-me-solis-investigation-20140510-story.html>.

¹⁴ Patrick Howley, *Administration Promoted Cabinet Member's Official Trip on Which she Headlined Obama Campaign Fundraiser*, DAILY CALLER, Mar. 23, 2014, available at <http://dailycaller.com/2014/03/23/administration-promoted-cabinet-members-official-trip-on-which-she-headlined-obama-campaign-fundraiser/>.

¹⁵ Pringle & Sewell, *supra* note 13.

¹⁶ *Id.*

Solis retained a law firm “to address legal issues concerning her role in a fundraising event.”¹⁷ A grand jury apparently questioned witnesses regarding phone conversations with Solis.¹⁸ The former Secretary resigned from federal service in January 2013—two months after reportedly meeting with the FBI.¹⁹

This is not the only time a Cabinet-level official in the Obama Administration participated in questionable political activity. In February 2012, Health and Human Services Secretary Kathleen Sebelius attended an event in North Carolina at the expense of taxpayers.²⁰ Acting in an official capacity, Secretary Sebelius offered political support for a Democratic candidate for governor. She said, “[y]our lieutenant governor, Walter Dalton, who needs to be the next governor of North Carolina, is in the house.”²¹ Secretary Sebelius also urged voters to make sure President Obama “continues to be president for another four years.”²² After media inquires, HHS reclassified the event as “political.”²³ In a letter to President Obama, the Office of Special Counsel head, Carolyn Lerner, confirmed that Secretary Sebelius violated the Hatch Act.²⁴ The White House required Secretary Sebelius to undergo ethics training, but she faced no formal penalty for the violation.²⁵

Similarly, numerous media outlets reported that the Administration also used taxpayer-funded travel to advance the interests of the Democratic Party during the 2010 midterm elections.²⁶ For example, Elizabeth Warren, then-Assistant to the President and Special Adviser to the Secretary of the Treasury on the Consumer Financial Protection Bureau, traveled to Columbus, Ohio—less than three weeks before the election—to participate in a consumer roundtable.²⁷ Non-profit groups hosted the event, including Policy Matters, COHHIO and Americans for Financial Reform.²⁸ The Treasury Department denied the political nature of the

¹⁷ Paul Pringle, *Solis Faced Federal Inquiry Concerning Role in Obama Fundraiser*, L.A. TIMES, Jan. 31, 2014, available at <http://www.latimes.com/local/la-me-0201-solis-inquiry-20140201-story.html>.

¹⁸ Pringle & Sewell, *supra* note 13.

¹⁹ *Id.*

²⁰ See Jennifer Haberkorn, *HHS Secretary Kathleen Sebelius Violated Hatch Act, OSC Concludes*, POLITICO, Sept. 12, 2012, available at <http://www.politico.com/news/stories/0912/81122.html>.

²¹ *Id.*

²² *White House indicates Sebelius won't be punished over Hatch Act violation*, FOXNEWS.COM, Sep. 14, 2012.

²³ Jake Tapper, *OSC says HHS Secretary Violated Hatch Act*, ABC NEWS, Sept. 12, 2014, available at <http://abcnews.go.com/blogs/politics/2012/09/office-of-special-counsel-says-hhs-secretary-violated-hatch-act/>.

²⁴ Letter from Hon. Carolyn Lerner, Special Counsel, U.S. Office of Special Counsel, to Hon. Barack Obama, President of the United States (Sept. 12, 2012), available at <http://www.osc.gov/documents/hatchact/Hatch%20Act%20Report%20on%20HHS%20Secretary%20Kathleen%20Sebelius.pdf>.

²⁵ *White House indicates Sebelius won't be punished over Hatch Act violation*, FOXNEWS.COM, Sep. 14, 2012.

²⁶ See generally Paul Kane, *House Democrats Hit Boiling Point Over Perceived Lack of White House Support*, WASH. POST, July 15, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/07/14/AR2010071406006.html>; Jonathan Martin, *White House Pushes Back on House Dems*, POLITICO, July 14, 2010, available at <http://www.politico.com/news/stories/0710/39738.html>.

²⁷ Michael Scherer, *The Politicization of Federal Workers, Continued? The Official Answer Is No*, TIME, Oct. 14, 2010, available at <http://swampland.blogs.time.com/2010/10/14/the-politicization-of-federal-workers-continued-the-official-answer-is-no/>.

²⁸ *Id.*

event, but its timing and location raised more questions than answers.²⁹ Columbus is located in Ohio's 15th congressional district, one of the most hotly contested House districts during the 2010 elections.³⁰ In fact, former Representative Mary Jo Kilroy, the member representing the district at the time, was an outspoken supporter of Elizabeth Warren and even used Warren's jargon in campaign ads.³¹

As Election Day 2014 approaches, the Obama Administration has intensified efforts to bolster Democratic candidates facing tough reelection battles.³² On January 24, 2014—after a nearly three year hiatus—the White House announced the reopening of the Office of Political Affairs (OPA). The purpose behind the reopening is “defending Democratic control of the Senate and taking back the House from Republicans.”³³ The new OPA will reportedly focus on the needs of Democratic candidates for Congress, including fundraising.³⁴ Indeed, *Politico* reported that the White House is portraying the new political director as a “one-stop shop for all things midterms.”³⁵ Unfortunately, it appears the Administration is determined to continue using taxpayer money to achieve electoral success.

So that the Committee can better understand the Administration's practices regarding political travel, please provide the following documents and information as soon as possible, but by no later than noon on June 18, 2014:

1. All documents, including e-mails, relating to the planning and coordinating of events for elected officials or candidates for public office involving the participating of any agency employee from January 1, 2012 to the present.
2. All documents, including e-mails, relating to the involvement of White House officials in scheduling, suggesting, coordinating, or directing public events with elected officials or candidates for office for any agency official from January 1, 2012 to the present.
3. All documents and communications relating to the official travel of any political appointee within the agency from January 1, 2012 to the present.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² See generally Paul Kane, *Democrats Seek Obama Administration's Help with Agency Decisions to Boost Reelection Bids*, WASH. POST, Apr. 7, 2014, available at http://www.washingtonpost.com/politics/democrats-seek-obama-administrations-help-with-agency-decisions-to-boost-reelection-bids/2014/04/07/03ca473e-bb70-11e3-96ae-f2c36d2b1245_story.html; Michael D. Shear, *White House Comeback for Political Affairs Office*, N.Y. TIMES, Jan. 24, 2014, available at <http://www.nytimes.com/2014/01/25/us/politics/white-house-comeback-for-political-affairs-office.html>.

³³ Shear, *supra* note 32.

³⁴ *Id.*

³⁵ Edward-Isaac Dovere, *White House to Launch New Political Office*, POLITICO, Jan. 24, 2014, available at <http://www.politico.com/story/2014/01/white-house-office-of-political-strategy-outreach-102582.html>.

The Honorable Gina McCarthy
June 4, 2014
Page 5

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

Please deliver your responses to the Majority Staff Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers to receive all documents in electronic format.

Thank you for your attention to this matter. Please contact Lamar Echols of the Committee staff at (202) 225-5074 with any questions about this matter.

Sincerely,



Darrell Issa
Chairman



Jim Jordan
Chairman

Subcommittee on Economic Growth,
Job Creation and Regulatory Affairs

Enclosure

cc: The Honorable Elijah Cummings, Ranking Minority Member

The Honorable Matthew A. Cartwright, Ranking Minority Member
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 21 2014

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of June 4, 2014, regarding travel by government officials. We share your views that rules governing political activities by federal employees should be followed scrupulously.

At the United States Environmental Protection Agency, we take extensive steps to make sure that the travel of Presidentially Appointed employees comply with all legal and ethical requirements. As a general matter, the Agency's ethics office provides the Administrator, her senior staff and others involved with her travel with periodic training on the Hatch Act and related requirements applicable to official and political travel.

More specifically, the Agency's ethics office regularly reviews the Administrator's and the Deputy Administrator's proposed schedule and trips. They advise those responsible for their travel to ensure that their trips are properly characterized and treated as official, political, or personal. In addition, the ethics office ensures that the costs of any trips that have a political component are charged appropriately in accordance with applicable legal formulae.

Please feel free to contact me if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura Vaught", is written over a horizontal line.

Laura Vaught
Associate Administrator

cc: The Honorable Elijah E. Cummings
Ranking Member



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 21 2014

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

The Honorable Jim Jordan
Chairman, Subcommittee on Economic Growth,
Job Creation and Regulatory Affairs
Committee on Oversight and Government Reform
U. S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of June 4, 2014, regarding travel by government officials. We share your views that rules governing political activities by federal employees should be followed scrupulously.

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Please feel free to contact me if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura Vaught".

Laura Vaught
Associate Administrator

cc: The Honorable Matthew A. Cartwright
Ranking Member

AL-14-001-1979

JACK REED
RHODE ISLAND

COMMITTEES

APPROPRIATIONS

ARMED SERVICES

BANKING, HOUSING, AND URBAN AFFAIRS

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WASHINGTON, DC 20510-3903

Washington, DC:

728 Hart Senate Office Building
Washington, DC 20510-3903
(202) 224-4642

Rhode Island:

1000 Chapel View Boulevard, Suite 290
Cranston, RI 02920-3074
(401) 943-3100

One Exchange Terrace, Room 408
Providence, RI 02903-1773
(401) 528-5200

1 (800) 284-4200

TDD Relay Rhode Island
1 (800) 745-5555

<http://reed.senate.gov>

June 25, 2014

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy:

You recently received an invitation from the New England Council (NEC), which would like to honor you as the 2014 "New Englander of the Year" at its 2014 Annual Dinner on October 9, 2014 at the Seaport Hotel/World Trade Center in Boston. I had the honor of receiving this award in 2005 and was pleased to learn that you are among those to be recognized by the NEC this year. I have enclosed a copy of NEC's invitation for your consideration.

Since its formation in 1925, the NEC has been a respected voice for New England businesses, academic and health institutions, and public and private organizations, and has sought to promote economic development throughout the region. Each fall, the NEC's Annual Dinner brings together New England businesses, non-profits, and academic leaders. The highlight of the event is the honoring of the "New Englander of the Year," an award for individuals who have made significant contributions to the region. Last year's recipients included Senator Kelly Ayotte, Kenneth R. Feinberg, LLP Administrator of The One Fund Boston, and Robert Reynolds, President and Chief Executive Officer of Putnam Investments.

NEC would be honored by your presence at this event, and I do hope that you consider attending and accepting this well-deserved recognition. If you have any questions about the event, please feel free to contact Diana Bowen of my staff at (202) 224-4642.

Sincerely,



Jack Reed
United States Senator

Enclosure

THE NEW ENGLAND COUNCIL

April 16, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Administrator McCarthy,

On behalf of the New England Council Board of Directors, I am delighted to extend our invitation to you to attend our 2014 Annual Dinner and be honored as a 2014 "New Englander of the Year." The dinner will be held on the evening of October 9, 2014, at the Seaport Hotel/World Trade Center, in Boston.

Each fall, some 1,500 New England Council members and guests—representing our region's most well-respected businesses, academic and health institutions, and public and private organizations—gather in Boston for the New England Council Annual Dinner. The dinner has become one of the region's most anticipated business events.

The highlight of each year's event is the presentation of the prestigious "New Englander of the Year" awards. First presented over 40 years ago, the award honors residents and natives of the New England states for their commitment and contributions in their fields of work. Over the years, the Council has honored leaders from both the public and private sectors, including U.S. Senators and Representatives, Governors, cabinet secretaries, college presidents, non-profit executives, and CEOs of some of the region's most respected and successful businesses. In recent years, we have honored U.S. Ambassador Caroline Kennedy, Pulitzer Prize winners Doris Kearns Goodwin and David McCullough, and former White House Chief of Staff Andy Card.

We would be delighted to honor you this year for your many accomplishments over the course of your remarkable career. You have been a true champion for protecting our environment and our precious natural resources, both here in New England and at the federal level. You make all of us in New England very proud.

Please feel free to contact me if you have any questions or would like additional information. I can be reached at (617) 723-4009 or jbrett@newenglandcouncil.com. We hope that you will accept our invitation and look forward to hearing from you soon.

Sincerely,



James T. Brett
President & CEO